



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

August 24, 2006

CERTIFIED RETURN RECEIPT 7004 2510 0004 1824 4790

Jerome Bown
Bown Stone Products, Inc.
93 West 300 South
P.O. Box 27
Manti, Utah 84642

Subject: Final Assessment for Cessation Order MC-2006-01-03, Bown Stone Products, Inc., Flower Patch Quarry, S/039/019, Sanpete County, Utah

Dear Mr. Bown:

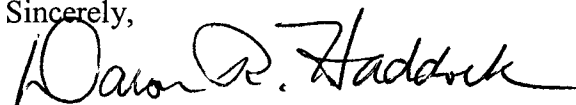
On July 5, 2006, the Division sent you, via Certified Mail, the proposed assessment of the penalty associated with the above-referenced Cessation Order. Under rules R647-7-106 & R646-7-107 you are allowed 30 days from the receipt of the proposed assessment to request a conference or hearing to review the fact of the violation or assessment. Our records indicate that you actually received the assessment on July 12, 2006.

If you wanted to appeal the fact of the Cessation Order or request a review of the proposed penalty assessment, that conference or hearing should have been requested on or before August 11, 2006. No request has been made; therefore, under R647-7-108 the opportunity to appeal is past and the proposed assessment is now considered final.

The penalty in the amount of \$374 is now due and payable. Please remit payment to the Division, mail c/o Vickie Southwick. Failure to provide the required payment within 30 days may result in civil action in the appropriate district court.

Thank you for resolving this situation. Please call me at (801) 538-5325 if you have any questions.

Sincerely,


Daron R. Haddock
Assessment Officer

DRH:vs

Enclosure Worksheet

cc: Vicki Bailey, Accounting
Vickie Southwick, Exec. Sec.

P:\GROUPS\MINERALS\WP\M039-Sanpete\S0390019-FlowerPatchQuarry\non-compliance\FinalAssessment.doc

WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE Bown Stone Products, Inc./ Flower Patch Quarry PERMIT S0390019

NOV / CO # MC-2006-01-03

VIOLATION 1 of 1

ASSESSMENT DATE July 5, 2006

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>none</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

******* *An Operator is required to obtain a permit from the Division of Oil Gas and Mining prior to conducting mining operations. The inspection of this site found areas of mining related disturbance, which are not part of a current mining permit. The Operator assumed that he was operating on a permitted area and had reclaimed some of the area so he could continue mining even though he was expanding beyond the 5- acre limit. He had not received approval to mine in the area where he was mining. Disturbance has actually occurred.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

******* *The inspector stated that the operator has disturbed a few acres of land that had not been approved for disturbance. The damage was the loss of vegetation and soil resources from the area disturbed. Further discussion with the inspector revealed that the damage is probably temporary. While the soil and vegetation have been disturbed, the site could still be reclaimed. Damage is assessed in the lower 1/3 of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 28

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 4

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector indicated that the violation was the result of the Operator not understanding the DOGM regulations. The Operator had been working on another permittee's area and had reclaimed some areas, so he felt he was operating underneath the small mine limitation, however, no release of the reclaimed area had been granted and no approval for expansion had been issued. Approximately 3-4 acres of disturbance has occurred. This indicates indifference to the rules or misunderstanding of the rules. A prudent operator would understand the need to obtain approval prior to disturbing an area. The Operator was somewhat negligent in this regard, thus the assignment of points in the lower part of the negligence range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	

(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

X	Rapid Compliance	-11 to -20*
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	-1 to -10*
	(Operator complied within the abatement period required)	
X	Extended Compliance	0
	(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)	
	(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)	

EASY OR DIFFICULT ABATEMENT? Difficult

ASSIGN GOOD FAITH POINTS -15

PROVIDE AN EXPLANATION OF POINTS:

*** *The abatement required submission of plans, so this was considered to be a difficult abatement. June 16, 2006 was the deadline set for submitting both a Notice of Intent and a reclamation surety. The operator provided a SMO on June 12, 2006, which was well before the required deadline and an acceptable surety was provided on June 15, 2006 also before the required deadline. The Operator showed diligence in abating the violation, thus good faith points are awarded in the middle of the "rapid compliance" category.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # <u>MC-06-01-03(1)</u>	
I.	TOTAL HISTORY POINTS <u>0</u>
II.	TOTAL SERIOUSNESS POINTS <u>28</u>
III.	TOTAL NEGLIGENCE POINTS <u>4</u>
IV.	TOTAL GOOD FAITH POINTS <u>-15</u>
	TOTAL ASSESSED POINTS <u>17</u>
	TOTAL ASSESSED FINE <u>\$ 374</u>